

MALIBU CONDOMINIUM,)	
Petitioner-Appellant,)	
)	
v.)	No.
)	
ILLINOIS COMMERCE COMMISSION;)	Petition for Review of Orders
COMMONWEALTH EDISON COMPANY,)	of the Illinois Commerce
Respondent-Appellee.)	Commission
)	Docket No. 08-0401
)	
)	

Petitioner Malibu Condominium (“Malibu”), acting pursuant to Illinois Supreme Court Rule 335 and Section 10-201 of the Public Utilities Act (the “Act”), 220 ILCS 5/10-201, hereby petitions this Court for review of the Order of the Illinois Commerce Commission (the “Commission”) in its Docket No. 08-0401, filed on June 24, 2009, and served on July 25, 2009; and the Commission’s Order denying Petitioner’s Petition for Rehearing, entered on August 4, 2009, and served on August 6, 2009.

1. the Commission erred as a matter of law in construing the plain language of Section 9-252.1 of the Act (220 ILCS 5/9-252.1), and by holding that none of Malibu's claims fall within the purview of said Section;
2. the Commission erred as a matter of law by characterizing Malibu's other, significant causes of action set forth in its Complaint against Commonwealth Edison Company ("ComEd") (i.e., ComEd's failure to comply with the express terms of its Rate 14, Rate 6 and Rate 6T tariffs and contracts, failure to comply

with proper tariff procedures and violations of Sections 9-101, 9-240 and 16-103.1 of the Act (220 ILCS 5/et seq.)) as mere rate classification claims which are time barred under Section 9-252 of the Act (220 ILCS 5/9-252); the ICC ignored and failed to consider specific allegations in the Complaint that ComEd charged more than the published rate for its electric service and that ComEd erred in measuring the quantity and volume of service provided to Petitioner;

3. the Commission erred as a matter of law in concluding that all of Petitioner's claims are exclusively governed by Section 9-252 of the Act and are time-barred thereunder (220 ILCS 5/9-252);
4. the Commission erred as a matter of law in concluding that under Section 9-252 of the Act (220 ILCS 5/9-252), the statute of limitations is not tolled by the filing of an informal complaint (ILL. ADMIN. CODE tit. 83, § 200.160); and
5. the Commission erred as a matter of law by finding that Section 9-252 of the Act should control Petitioner's claims because Petitioner had reasonable notice of the overbilling by ComEd (220 ILCS 5/9-252).

On all these issues for appeal, the Commission's Orders are contrary to law, arbitrary, capricious, contrary to and not supported by the manifest weight of substantial evidence in the record as a whole, beyond the jurisdiction of the Commission, and contrary to Sections 201(e)(iv)(A-D) of the Act. 220 ILCS 5/9-201(e)(iv)(A-D)

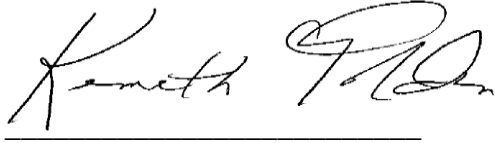
All these issues for appeal are set forth in Petitioner's Petition for Rehearing in ICC Docket No. 08-0401, which was timely filed on July 22, 2009, and was denied in substantial part by the Commission on August 4, 2009. Petitioner respectfully requests that this Court determine the lawfulness of the Commission's orders at issue, that this

Court reverse and remand such orders, and that this Court enter such relief as it deems necessary, just and proper.

Copies of Petitioner's Notice of Appeal, which has been timely filed with the Commission pursuant to Section 10-201(b) of the Act (220 ILCS 5/10-201(b)), together with a Certificate of Filing and Service thereof, are attached hereto and made a part hereof.

Respectfully submitted,

MALIBU CONDOMINIUM

By: 

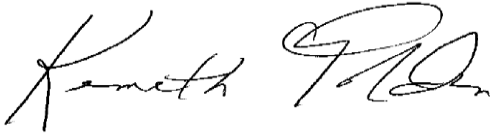
One of its attorneys

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Dated: August 21, 2009

CERTIFICATE OF SERVICE

I, Kenneth G. Goldin, hereby certify that a copy of the foregoing Notice of Attorney Appearance, Notice of Appeal and Notice of Filing was served on the persons set forth below at the addresses set forth below by depositing same in United States mail, proper postage prepaid at 9100 Plainfield Road, Brookfield IL and/or by electronic mail on August 21, 2009.



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IN THE APPELLATE COURT OF ILLINOIS
FOR THE FIRST JUDICIAL DISTRICT

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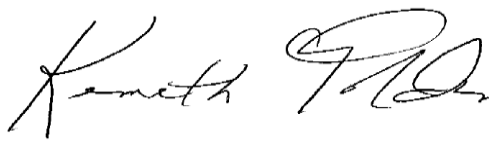
NOTICE OF ATTORNEY APPEARANCES

Kenneth G. Goldin of the law firm of Goldin, Hill & Associates hereby enters his appearance on behalf of Petitioner MALIBU CONDOMINIUM.

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Respectfully submitted,

MALIBU CONDOMINIUM

By: 
One of its attorneys

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